

4.0 MEETINGS

4.1 Definition

A public meeting occurs at any time a quorum of the committee (or subcommittee) members get together to discuss or consider any public business or policy over which the committee has some jurisdiction or advisory power. In most cases, more than one-half of the committee's full membership constitutes a quorum and is necessary for conducting official business. It should be noted that members participating by speaker phone or skype may not vote on issues nor be considered as part of the quorum, a matter still under consideration by the Attorney General's Office.
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4.2 Open Meeting Law

4.2.1 General Information

The Massachusetts Open Meeting Law (OML)--(See Appendix) requires that all meetings of elected or appointed boards, committees or subcommittees be open to the public except in ~~teneight~~ specific situations where Executive Session is permitted (See Section 4.4 21 a of the OML, Executive Session). No votes taken in open session by a governmental body, may be by secret ballot.

The law does not apply to chance meetings or social occasions; however, such meetings cannot be used to circumvent the requirement of discussing and deliberating at public meetings. The law does not apply to administrative meetings or to a group appointed by a single administrator to advise on administrative responsibilities.

The Open Meeting Law does not contravene other laws, such as the Privacy Act. If clarification is needed, particularly concerning Executive Session and the rights of individuals, the committee chair may request that the Town Manager obtain advice on specific questions from legal counsel.

4.2.2 Recordings

Any person may record a meeting (with the exception of Executive Session) with a tape recorder and/or video ~~tape~~ equipment provided there is no active interference with the conduct of the meeting. The manner in which this right is to be exercised is subject to the reasonable direction of the chair.

4.3 General Guidelines

A committee may adopt formal rules of order, such as Robert's Rule of Parliamentary Procedure. Although most small committee discussions may seem too casual to be called debate, it is advisable for the committee to observe a minimum of generally accepted procedures. Attentive guidance by the chair and adherence to adopted procedures can increase efficiency as well as maintain objectivity.

The chair should limit all participants to concise, non-repetitive statements. Although desirable, it is not necessary for the committee to continue discussion until complete consensus is achieved. Other actions such as calling for a vote, postponing until more information is available, or referring to a subcommittee may be required.

Careful preparation before meetings, e.g., organizing agenda items, distributing information in advance, and anticipating possible questions, can expedite discussion, facilitate action and avoid long and exhausting meetings.

Amherst has long been recognized for vigorous dissent, civil discussion, and mutual respect among individuals of diverse points of view. Committees discuss the merits of issues; personal comments are considered out of order. ~~The Open Meeting Law (See Section 4.2) does not require that~~ visitors may be allowed to participate if recognized by the chair; ~~and time~~ constraints and agendas often require brevity. It may be advisable for the chair to remind speakers of time and repetition limits. No one may speak at a committee meeting without permission of the chair. If a speaker refuses to be silent after warning from the chair, the chair has the authority to order the speaker removed from the meeting by the police. Nevertheless, all committee members represent and serve the Town. They should treat all visitors and other committee members with courtesy and consideration. Whenever possible, it is advisable to permit public participation in some form, such as a short period at each meeting or occasional meetings for public hearings.

4.4 Executive Session

An Executive Session is closed to the public, but the committee must first convene in an Open Session for which notice has been posted. A majority of the members must vote, by roll-call vote entered into the minutes, in favor of a motion to go into Executive Session. The motion should specify the applicable reason and state whether or not the Open Session will reconvene following Executive Session. Records of any Executive Session remain closed to the public only as long as publication may defeat the purposes of the Executive Session. All votes taken in Executive Session are recorded by roll call and become a part of the record of that session. Topics discussed in Executive Session are confidential.

Attendees do not discuss these matters with anyone until the purpose for the Executive Session no longer exists and the minutes have been voted to be released to the public (See section 21b Open Meeting Law (OML)).

Executive session may be held only for the ~~following~~ purposes described in section 21a of the OML—see below:

Open Meeting Law SECTION 21. [EXECUTIVE SESSIONS]

(a) A public body may meet in executive session only for the following purposes:

(1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights: i. to be present at such executive session during deliberations which involve that individual; ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session; iii. to speak on his own behalf; and iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense. The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;

5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to

consider and interview applicants who have passed a prior preliminary screening;

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that: (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or

10. to discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy. (b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that: 1. the body has first convened in an open session pursuant to section 21; 2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes; 3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called; 4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and 5. accurate records of the executive session shall be maintained pursuant to section 23.

NOTE; Purpose #1 should be used with great caution and should ordinarily be discussed in advance with the Town Manager or, if he/she authorizes it, with Town Counsel.÷

- ~~1. To discuss the reputation, character, physical condition or mental health of an individual provided that the individual is accorded notice and certain rights.~~
- ~~2. To consider complaints against an individual provided that the individual is accorded notice and certain rights.~~
- ~~3. (a) To discuss collective bargaining or litigation strategy if open discussion may have a detrimental effect on the position of the governmental body; (b) to conduct collective bargaining sessions; and (c) to conduct contract negotiations with nonunion personnel.~~
- ~~4. To discuss security measures.~~

- ~~5. To investigate alleged criminal misconduct or to discuss filing criminal complaints.~~
- ~~6. To consider the purchase, exchange, lease, or value of real property if open discussion may have a detrimental effect on the position of the governmental body.~~
- ~~7. To comply with the provisions of any general or special law or federal grant in aid requirements.~~
- ~~8. To review resumes and interview candidates for employment if an open meeting will have a detrimental effect in obtaining qualified applicants.~~
- ~~9. To meet with a mediator regarding any litigation or decision.~~
- ~~NOTE: Purposes #1 and #2 should be used with great caution and should ordinarily be discussed in advance with the Town Manager or, if he/she authorizes it, with Town Counsel.~~

4.5 Meeting Schedule

The frequency of meetings depends on a committee's workload. Most meetings are commonly held weekly, bimonthly or monthly. The chair calls each meeting except for the first one, which is called by the appointing authority. When possible, a regular meeting day, hour, and location should be established. Except in cases of emergency, Town committees do not meet on major religious or official holidays and only very rarely on weekends.

4.6 Meeting Location

Meetings must be held in a place which is open to the public and accessible to the handicapped. The Select Board urges committees to meet in a Town building because meetings held in private homes or restaurants may give the appearance of being secret and discourage the public from attending. A committee may reserve a room in a Town building by contacting the following:

Needs checking for phone numbers:

- Town Hall: 259-3035 or 259-3001
- Bangs Community Center: 259-3060 (Council on Aging)
- Jones Library: 259-3090

● — Police Community Room: 259-3014

School Department

Others

List of possible meeting places—Include.?

4.7 Posting

It is the responsibility of the committee (See Section 3.4, Secretary) to give notice to the Town Clerk (post) of the committee's meetings with time, date, and place. Except for emergency meetings, meetings must be posted 48 hours in advance by the Town Clerk; including Saturdays not Sundays or legal holidays. In the case of emergency meetings (sudden, unexpected occasions which require immediate action by the body) or adjourned meetings if scheduled for less than 48 hours from the adjournment, prior posting is not required; however, the Town Clerk must be informed and the meeting posted as soon as possible. The Town Clerk is responsible for maintaining a current listing of all posted meetings on the bulletin board at Town Hall.

4.8 Recordkeeping

State law requires that a committee keep accurate records of its public meetings. The committee must vote to accept all minutes. The records of each regular meeting are public information, and chairs or their designees must maintain a copy of all approved minutes for public inspection. In addition, a copy of all approved minutes must be filed with the Select Board Office. The chair or their designees should submit the file(s) of pertinent material to their successor or to the staff liaison at their resignation or completion of their term with the committee. (See sample minutes form in appendices.)

Minutes must include:

- the names of committee members present at the meeting.
- the names of others present if Executive Session.
- date, time convened, and time adjourned.
- all agreements reached by vote or consensus.

Minutes should include:

- assignments.
- mention of topics discussed.
- names of additional participants (not press or observers).

- name of recorder.

Minutes may include:

- summaries of discussions (recommended only if they are helpful in understanding decisions or provide factual information that may be useful to the committee).
- schedule of future meeting(s).

4.9 Public Records Law

The Massachusetts Public Records Law (MGL Chapter 4, Section 7(26) and any amendments provides right of access to public records, broadly defined to include all documentary materials except eleven specific exemptions such as personnel and medical files, proposals and bids, and appraisals of property. The minutes, informational data, memoranda and circulating materials of any Town board or committee are mostly all public information. The committee should consult its liaison if questions arise concerning freedom of information.